

In re) Fair Hearing No. 16,083
)
Appeal of)

The petitioner appeals the decision by the Department of Social Welfare terminating her husband's eligibility for VHAP. The issue is whether the Department correctly calculated her husband's income and expenses. The pertinent facts are not in dispute.

1. The petitioner is disabled and receives Medicaid as a single person household because she is a recipient of SSI. Her husband is employed and has gross earnings of \$1290 a month.

2. Until recently, the petitioner's husband received VHAP based on a two-person household comprised of him and his daughter.

3. Recently, the petitioner's daughter left the household. As a result, the petitioner's husband's eligibility for VHAP is now based on his being a one-person household.

4. Unfortunately, this reduction in household composition placed the husband over the maximum income level for a one-person household.

5. The petitioner's husband, though employed, has chronic medical conditions that require him to take expensive prescribed medications on a regular basis.

ORDER

The Department' decision is affirmed.

REASONS

Under the VHAP regulations gross earnings from employment are considered in determining eligibility, and the only deductions allowed are for self-employment business expenses, a standard employment expense, and dependent care expenses. W.A.M. § 4001.81(c). The petitioner's husband is not self-employed and their child no longer lives with them.

Therefore, the only deduction for him allowed in the regulations is the standard employment expense of \$90. Id. § 4001.81(e). This brings his countable income to \$1200 a month.

Under the current regulations (see W.A.M. § 4001.84) the maximum allowable income for one person is \$1030 a month. Procedures Manual § 2420. Unlike the Medicaid program, there is no provision in VHAP for a determination of "applied income" or a "spenddown", by which the incurring of a predetermined amount of excess medical expenses within a six-month period can trigger eligibility at that point.

Being only slightly overincome, and having inordinately high medical expenses, the petitioner and her husband are harshly affected by the lack of such a provision. At present, however, there is nothing in the VHAP regulations allowing for the consideration of medical expenses (or any other household expenses) as a deduction from gross income.

Inasmuch as the Department's determination in this case is in accord with the regulations, the Board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

#